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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,988	07/09/2001	Yasuhisa Fukuda	Q65356	5162
7590	09/06/2005		EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3213			VAN DOREN, BETH	
			ART UNIT	PAPER NUMBER
			3623	
			DATE MAILED: 09/06/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/899,988	FUKUDA, YASUHISA	
	<b>Examiner</b>	<b>Art Unit</b>	
	Beth Van Doren	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 09 July 2001.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 20020823.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. The following is a non-final, first office action on the merits. Claims 1-5 are pending.

### *Specification*

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains the abbreviation "CS" without any clarification as to for what "CS" stands. "CS" could stand for customer service, consumer satisfaction, customer satisfaction, etc. A reader would be required to turn the specification to determine the meaning of the abbreviation. Therefore, the abstract should recite --to improve customer satisfaction (CS) for both senders and receivers--. Correction is required.

See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 3-5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In the present case, claim 3 recites a computer readable storage medium storing a network home delivery service program used, the program comprising the steps of the body of the claim. A program (or software per se) is not considered statutory subject matter unless it is executed on a computer readable medium. Claims 4-5 depend from claim 3 and contain the

same deficiencies. Therefore, claims 5-48 and 57-60 are deemed to be directed towards non-statutory subject matter.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-2 are rejected under 35 U.S.C. 102(a) as being anticipated by Hub Group Distribution Services (HGDS). The following references disclose aspects of HGDS:

- i. Article “No Place Like Home” by Kathleen Hickey, dated 01/31/2000 [referred to herein as reference A];
- ii. Article “Company launches Home Delivery Service” by Lawrence H. Kaufman, dated 01/14/2000 [referred to herein as reference B];
- iii. Screenshots of HGDS, [www.hgds.com](http://www.hgds.com), retrieved from the archived date of 04/08/2000 via archive.org [referred to herein as reference C].

6. As per claim 1, HGDS teaches a method for providing network home delivery service, used in a network home delivery service system in which terminals of a sender and a receiver who are both customers and a host computer of a delivery service provider are connected via a communication network, the method comprising the steps of:

receiving an order of home delivery from the sender via the communication network, and collecting a relevant parcel (See reference A, page 1, section 1, reference C, pages 4-5, wherein an item needing home delivery is ordered from a sender via a communication network) ;

sending information about the parcel to the receiver via the communication network, and requesting the receiver to designate a desired delivery time period (See reference A, page 1, section 1, and page 2, section 1, reference C, pages 4-5, wherein information about the item to be delivered is sent to the receiver via the network (i.e. tracking information) and the receiver schedules an appointment for delivery); and

delivering the parcel during the designated time period (See reference A, page 1, section 1, and page 2, section 1, reference C, pages 5 and 7, wherein the parcel is delivered at the specified time).

7. As per claim 2, HGDS teaches a network home delivery service system, comprising:

a sender's terminal to which a sender of a parcel inputs order data which includes data about a receiver of the parcel (See reference A, page 1, section 1, and page 2, section 1, and reference C, page 4-5 and 7-8, wherein the system has information from the sender about the item, the delivery, and the receiver);

a host computer for:

receiving the order data via a communication network and instructing collection of the parcel (See reference A, page 1, section 1, and page 2, section 2, reference C, pages 4-6 and 9, wherein the order data is received and the item is collected from the e-tailer);

sending the receiver information about the parcel via the communication network and requesting the receiver to designate a desired delivery time period (See reference A, page 1,

section 1, and page 2, section 1, reference C, pages 4-5, wherein the receiver receives delivery information and the receiver is requested for information about a desired delivery time); and

instructing delivery of the collected parcel during the designated time period (See reference A, page 1, section 1, and page 2, section 1, reference C, pages 4-5, wherein the delivery occurs at the designated time); and

a receiver's terminal to which the receiver inputs the desired delivery time period (See reference A, page 1, section 1, wherein the receiver has a terminal and the receiver automatically schedules the delivery), and

wherein the sender's terminal, the host computer, and the receiver's terminal are connected to each other via the communication network (See reference A, page 1, section 1, and page 2, section 1, reference C, pages 4-6 and 9, which discloses the network connections).

#### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hub Group Distribution Services (HGDS) in view of Slotznick (U.S. 5,983,200). The references disclosing features of HGDS are set forth above.

9. As per claim 3, HGDS teaches computer readable storage medium storing a network home delivery service program used in a network home delivery service system in which terminals of a sender and a receiver, both customers, and a host computer of a delivery service provider are connected via a communication network, the program comprising the steps of:

receiving order data from the sender of a parcel, where the order data consists of the location of the sender and the receiver (See reference A, page 1, section 1, and page 2, section 1, reference C, pages 4-6 and 9, wherein order data is received via the system and the third party delivery company knows where to pick the item up and where to deliver the item);

sending the receiver delivery information based on the order data and requesting the receiver to input a desired delivery time period of the parcel (See reference A, page 1, section 1, and page 2, section 1, reference C, pages 4-5, wherein the receiver receives delivery information and the receiver is requested for information about a desired delivery time);

receiving the input desired delivery time period from the receiver (See reference A, page 1, section 1, and page 2, section 1, reference C, pages 4-5, wherein information about the desired delivery date is received and the appointment is scheduled); and

receiving a delivery completion notice about the parcel and sending delivery completion information to the sender (See reference A, page 1, section 1, and page 2, section 1, reference C, pages 5-6 and 8-9).

However, does not expressly disclose that the order data consists of sender data and receiver data, each including at least a zip code, an address, and a name.

Slotznick discloses order data consists of sender data and receiver data, each including at least a zip code, an address, and a name (See column 17, lines 30-35, column 18, lines 55-67, column 19, lines 50-55, wherein the sender's and the receiver's address information is stored).

Both HGDS and Slotznick disclose third party shippers that deliver an item between and sender and a receiver. HGDS discloses picking up the item from the location of the sender and delivering it to the location of the receiver. It would have been obvious to one of ordinary skill in the art at the time of the invention to use addresses to identify the location of the sender and receiver in order to more efficiently streamline the delivery process. See reference C, page 5. Using addresses to identify ship to and ship from location are old and well known in shipping and other postal services.

10. As per claims 4-5, HGDS discloses picking up the item from the location of the sender and delivering it to the location of the receiver and scheduling parcel delivery times (See reference A, page 1, section 1, and reference C, page 6, wherein the item is delivered from the sender to the receiver based on a scheduled delivery time). HGDS also discloses a "route-it" function through their technology and trying to shorten delivery cycle times (See reference B, page 2, section 2, and reference C, page 4). However, HGDS does not expressly disclose the sender inputting a parcel collecting time period or setting a lead time, necessary for parcel collection, for each zip code, and scheduling parcel collection by calculating a shortest possible collection time based on the lead time and the current time. HGDS further does not teach setting a delivery lead time for each combination of the zip code of each collecting place and the zip code of each delivery place, and scheduling parcel delivery by calculating a shortest possible delivery time based on the delivery lead time and the current time.

Slotznick discloses lead time calculations and just in time delivery based on the date, the item location, and the delivery location of the recipient (See figure 8, column 4, lines 1-27, column 17, lines 30-35, column 19, lines 50-55, column 20, line 58-column 21, line 10, wherein the third party merchant schedules the delivery using the locations and dates involved).

Both HGDS and Slotznick disclose third party shippers that deliver an item between a sender and a receiver. HGDS discloses picking up the item from the location of the sender and delivering it to the location of the receiver, the receiver specifying a desired delivery date/time and a delivery appointment being set. It would have been obvious to one of ordinary skill in the art at the time of the invention to include lead-time considerations in picking up and delivering the item in order to more efficiently streamline the delivery process and meet customer service requirements (thus maintaining good customer relationships). See reference C, pages 5 and 8.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Barts et al. (U.S. 2002/0082893) discloses delivery from a factory to a purchaser's home.

Cupps et al. (U.S. 5,991,739) discloses an online ordering system that tracks the customer's and vendor's locations.

Van Rysselberghe (U.S. 2005/0165612) discloses delivering goods and services utilizing a network.

Mulady ("Fedex to add home deliveries") teaches home delivery wherein the receiver can schedule an appointment for the delivery.

“Fedex will deliver to homes” (Bloomsberg News) teaches home delivery wherein the receiver can schedule an appointment for the delivery.

“Spring Internet World Exhibitor Profiles E-I” (Business Wire) discloses e-logisitics delivery.

Jedd (“Sizing up home delivery”) discloses residential deliveries to homes for e-tailers by third party delivery companies.

Hastings (“Survey of Courier and Express Services”) teaches door-to-door express delivery services.

“UPS E-Commerce” ([www.ec.ups.com](http://www.ec.ups.com)) teaches a delivery service for a e-commerce website that allows tracking.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*lvd*  
Sept. 1, 2005

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